

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

STEPHEN McCOLLUM, STEPHANIE KINGREY, and SANDRA McCOLLUM, individually and as heirs at law to the Estate of LARRY GENE McCOLLUM,

PLAINTIFFS

V.

CIVIL ACTION NO.  
3:12-cv-02037

BRAD LIVINGSTON, JEFF PRINGLE,  
RICHARD CLARK, KAREN TATE,  
SANDREA SANDERS, ROBERT EASON, the  
UNIVERSITY OF TEXAS MEDICAL  
BRANCH and the TEXAS DEPARTMENT OF  
CRIMINAL JUSTICE.

DEFENDANTS

## PLAINTIFFS' SECOND NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs advise the Court of relevant supplemental authority supporting their response to Defendant University of Texas Medical Branch's motion to dismiss Plaintiffs' Americans with Disabilities Act and Rehabilitation Act claims (Doc. 85).

On January 16, 2014, Federal District Judge Nelva Gonzales Ramos denied a virtually identical motion in *Hinojosa v. Livingston*, Civil Action No. 2:13-CV-319, Doc.

24 (S.D. Tex. Jan. 16, 2014) (attached as *Exhibit I*). Judge Ramos ruled:

Plaintiff has alleged sufficient facts to state how the decedent was discriminated against. Plaintiff alleges that Defendant knew of the risks and dangers associated with certain medical conditions and medications, that Defendant knew the decedent suffered from those conditions and used those medications, and that despite that knowledge, Defendant failed to make reasonable accommodations, resulting in the decedent suffering more pain and punishment than non-disabled prisoners – namely, his death.

*Id.* p. 4. Judge Ramos further held “it is not enough for Defendant to claim that all prisoners in the [prison] – whether suffering from a disability or not – endured the same housing and living conditions that the decedent did.” *Id.*

The facts alleged in this case are exactly the same. Like Mr. Hinojosa, Mr. McCollum suffered from heat-sensitive disabilities, but UTMB denied him any accommodation to protect him from the extreme indoor temperatures in Texas prisons. Thus, this Court should consider Judge Ramos’ decision as persuasive authority, and Plaintiff respectfully requests the Court deny UTMB’s motion to dismiss.

DATED: January 16, 2014.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

By my signature above, I certify that a true and correct copy of the foregoing has been served on all counsel of record through the Electronic Case Files System of the Eastern District of Texas.